

Decision Notice
WESTSLOPE CUTTHROAT TROUT
RESTORATION PROGRAM IN THE ELKHORN MOUNTAINS
Prepared by Region 3, Montana Fish, Wildlife & Parks
July, 1999

Proposal

Montana Fish, Wildlife, & Parks (FWP), in cooperation with the U.S. Forest Service (FS) and the Bureau of Land Management (BLM), proposes to implement a mountain-range wide program for increasing the distribution and abundance of westslope cutthroat trout (WCT) populations in the Elkhorn Mountains. Implementation of the program would include construction and installation of fish barriers, removal of non-native fishes by electrofishing and the utilization of a fish toxicant. The program would also include inventory, data collection, and monitoring.

Environmental Policy Act Processes

FWP is required to assess impacts of the proposal to the human and physical environment. The Westslope Cutthroat Trout Restoration Program in the Elkhorn Mountains proposal and its effects were documented by FWP, in conjunction with the cooperating agencies in an Environmental Assessment (EA) in compliance with the Montana Environmental Policy Act (MEPA). There are no actions proposed at this time which require the federal agencies to complete an analysis under the National Environmental Policy Act (NEPA).

Information regarding restoration of WCT in the Elkhorn Mountains was presented to the public in February, 1997 through mailings and a series of three public meetings. The formal EA was released for a 30 day public comment period on May 1, 1999, with three public meetings held on May 18, 19, and 20 in Townsend, Helena, and Boulder, respectively. Public notification of the proposed action was completed via press releases to all southwestern Montana newspapers, publishing of a legal notice in the Helena Independent Record, and through a mailing that included about 150 executive summaries and about 100 EAs to individuals who had expressed interest in fish management and in management of the Elkhorn Mountains. Copies of the Draft EA were available at the public meetings, along with comment sheets.

Issues raised during the public comment period on the EA are addressed in the Comment section of this Decision Notice. There are no modifications to the Draft EA. The Draft EA and this Decision Notice serve as the final document.

Issues Raised in the Environmental Assessment

The EA lists the issues in detail. These include:

- Extinction risks of a native sensitive species.
- Impact on existing recreational fisheries.
- Cost of restoration.

Broadwater

- Effect of WCT restoration on invertebrate and/or amphibian species.
- Effects to livestock permittees or other Elkhorn users.
- Sources of genetically pure WCT.
- Effectiveness and impacts of non-native fish removal methods.
- Effects barriers on other native fish (sculpins).

Summary of Public Comment

As of June 7, 1999, FWP had received a total of 22 comments including written comments from 14 individuals and organizations. In addition, 8 oral comments were noted at the three public meetings held during the month of May in Townsend, Helena, and Boulder, Montana. A total of 27 individuals attended the 3 meetings. Ten of the written comments favored implementation of Alternative 3; four comments indicated support for Alternative 2. Two of the three supporters of Alternative 2 indicated support of an expanded program in the future if Alternative 2 was successful. There were no comments, oral or written, which opposed a program of westslope cutthroat trout restoration in the Elkhorn Mountains.

The comments were categorized into 15 major issues. Following is a response to each issue identified by reference number.

Issue 1. Extinction risk and long-term persistence of WCT as related to interconnected populations

Comment: *Four commentors stated that the extinction risk of WCT is high and that there are restoration opportunities in the Elkhorn Mountains that would result in decreased extinction risk and help ensure long-term persistence of the species.*

Response: *The Department agrees and in cooperation with the Forest Service, has documented the extinction of an isolated population in the South Fork of Warm Springs Creek between 1981 and 1999. Establishing inter-connected populations is the best tool to ensure long-term persistence of WCT.*

Issue 2. Maintenance and restoration of the genetic diversity and life history strategies represented by the remaining populations

Comment: *One comment stated that the nearest neighbor approach, where genetic material from existing WCT populations is brought to other suitable streams, is the best option for long term WCT persistence, as opposed to the use of hatchery fish. Another comment supported the conservation of important genetic material represented by the 100% pure WCT populations in the Elkhorns. One comment focused on the importance of genetically distinguishable populations.*

Response: *In both Alternatives 2 and 3, the strategy is to protect the genetic reserves which remain in the Elkhorn Mountains by using the "nearest neighbor" approach in contrast to bringing in hatchery fish or WCT from outside the Elkhorns.*

Issue 3. Providing for adequate angling opportunities

Comment: *Two comments expressed opposition to replacing brook trout in upper Crow Creek with WCT. One comment suggested that Alternative 3 provided for adequate angling. Another comment noted that Alternative 3 provides the potential for a future high quality recreational fishery featuring WCT.*

Response: *The Department acknowledges the popularity of the Tizer Basin area with recreational anglers and the difficulty in managing the lakes at the head of the watershed to be compatible with the connected stream populations. However, the Crow Creek project comes late in the life of this 10 year program and will be addressed in a site-specific EA. We feel confident that we can use what we learn from the other Elkhorn projects to successfully implement at least some WCT restoration in the upper Crow Creek watershed. Although there are individuals who fish Big Tizer Creek below Tizer Lakes, most of the recreational fishing occurs below Crow Creek Falls. The Department acknowledges, that in the short term, angling opportunity will be impacted in Big Tizer Creek. If the restoration program is successful in establishing healthy populations of WCT, it is anticipated that some harvest could be allowed. Additionally, WCT may provide larger fish than the existing brook trout populations.*

Issue 4. Wildlife Management Unit status of the Elkhorn Mountains

Comment: *One comment stated that land use allocation and priorities in the Elkhorns limits conflicts between WCT and other land uses. Another comment anticipated grazing cutbacks or elimination in relation to WCT restoration.*

Response: *Most of the restoration of WCT will occur on National Forest System lands in the Elkhorns where the emphasis is to maintain or restore quality fish and wildlife habitats. Grazing management and other activities are managed to provide for healthy soil, water, and vegetation. The existing habitats are in good condition and non native fish are believed to be the limiting factor for WCT in the Elkhorns at this time. Cuts in grazing, should there be any in the future, will be based on improving soil, water, and/or vegetation, not due to the presence of WCT.*

Issue 5. Previous restoration efforts of native species have been accomplished for individual isolated streams.

Comment: *One comment stated that the landscape level restoration, exemplified by the Elkhorn strategy, serves as a pilot project for providing insight on how to go about restoration elsewhere. One of the commentators mentioned that the monitoring component included in Alternative 3 will help determine success and indicate which methods are working and which do not.*

Response: *Alternative 3 includes a variety of restoration methods and tools and an emphasis on monitoring to evaluate restoration effectiveness. This information will benefit other restoration efforts. Alternative 3 not only looks at a large geographic area, but also provides an example of working across*

administrative boundaries, demonstrating that federal and state government can work together towards native fish restoration and conservation.

Issue 6. The effectiveness and impacts of the methods used to implement Elkhorn Restoration Program

Comment: *One comment suggested the proposed methods (fish toxicants) in Alternatives 2 and 3 are controversial but accepted and consistent with the statewide plan. One comment questioned the feasibility of removing non-native fish from upper Crow Creek and one comment questioned the feasibility of removing non-native fish from East Fork Dry Creek.*

Response: *Each specific project will have further analysis and documentation which will disclose impacts and identify alternatives and mitigation. Use of fish toxicants in East Fork Dry is expected to be effective because of the simplicity of the habitat. The Department agrees that non native fish removal in upper Crow Creek will be challenging. However, fish toxicants will have been used on 6 stream complexes in the Elkhorns prior to undertaking Crow Creek. Experience and knowledge gained through this work will help determine the feasibility of successfully treating upper Crow Creek in about 2006.*

Issue 7. Costs and Economics

Comment: *One comment suggests lower per mile cost for Alternative 3 versus Alternative 2. Another comment suggested funding for Alternative 3 is achievable. An additional comment suggests and demonstrates that resources are available to implement Alternative 3. Another comment supported a moderate restoration program and suggested that the costs may not be warranted for an aggressive program.*

Response: *The state has a statewide WCT conservation strategy (Memorandum of Understanding and Conservation Agreement for West Slope Cutthroat Trout in Montana; FWP, May 1999 .) The direct costs of implementing Alternative 3 are higher than Alternative 2. However, Alternative 3 will help achieve statewide objectives for the upper Missouri River by achieving one of 4 interconnected populations. Therefore, the costs incurred in restoring WCT in the Elkhorns, will mean fewer costs elsewhere in the upper Missouri watershed. The short-term costs of Alternative 3 are higher than Alternative 2. Yet, the long term benefits, in terms of reducing extinction probability, are greater under Alternative 3 relative to Alternative 2. Both state and federal agencies, as well as private groups, have earmarked funding for native fish species conservation and are prepared to make significant commitments towards the Elkhorn project.*

Issue 8. Listing of WCT under Endangered Species Act (ESA)

Comment: *One commentor suggested that the Elkhorns project demonstrates the kind of actions which will heavily influence the final decision on listing the WCT under the ESA and that implementation of plans such as proposed will serve as important accounting points of commitment for recovery by resource agencies. Another comment stated that the potential for WCT to be listed species underscores*

the need for reversing negative population trends. One commentor identified pro-active actions in the Elkhorns as a better alternative than listing under ESA.

Response: *The Department believes it is important to restore WCT in the Elkhorns. If conservation and restoration efforts are successful, in the Elkhorns and elsewhere, listing of species would not be necessary, and the authority of the ESA would not be invoked.*

Issue 9. Habitat management

Comment: *One comment suggested that habitat management is a critical part of WCT restoration and should not be ignored, especially management of stream temperatures through stream shading and pool enhancements and applying road density standards such as are applied to bull trout.*

Response: *As identified in the EA, most of the target streams in the Elkhorns have good quality habitat. The Department believes that non-native fish are limiting factors for WCT at this time. On a site-specific basis, the Department will evaluate the habitat conditions and incorporate improvements if needed. The travel management plan for the Elkhorns was updated in 1995 and restricted motorized vehicles to designated routes. The Department believes this is sufficient to adequately protect stream water quality. In addition, many of the target streams in the WCT restoration plan occur in the "roadless" or non-motorized management area of the Elkhorns.*

Issue 10. How aggressively should WCT restoration occur in the Elkhorns?

Comment: *Of the two action alternatives considered in the EA, Alternative 3 represented the most aggressive approach to WCT restoration in the Elkhorn Mountains. Ten of the written comments favored implementation of Alternative 3. Four comments indicated support for Alternative 2. Two of the three supporters of Alternative 2 indicated support of an expanded program in the future if Alternative 2 was successful. There were no comments, oral or written, which opposed a program of westslope cutthroat trout restoration in the Elkhorn Mountains.*

Response: *The Department believes an aggressive WCT restoration strategy is warranted in the Elkhorn Mountains because of their unique management status, the existence of good quality habitat, and the importance of the genetic reserve represented by the 6 remaining WCT populations. Cooperating federal agencies concur as exemplified in the Memorandum of Understanding and Conservation Agreement. A letter of cooperation from the USFS and BLM is attached with this document.*

Issue 11. Management of the lakes in upper Crow Creek

Comment: *One comment suggested that stocking of lakes with hatchery WCT may not be compatible with downstream management of "nearest neighbor" stocks. Also, that the brook trout fishery in Hidden Lake was a favorite sport fishery.*

Response: *The Department will not stock the lakes with fish incompatible with the downstream fishery. There will be a site-specific analysis of the upper Crow Creek project in about 2006 which will help further identify the options available to address this issue.*

Issue 12. Use of fish toxicants

Comment: *Fish toxicants were mentioned in oral comment during the three public meetings. There were written comments expressing concern about side effects and long term problems associated with the use of fish toxicants. One commentor asked how long antimycin has been in use. Other commentors expressed concerns with the toxicant relative to downstream drinking water, effects on livestock and displacement of livestock during implementation.*

Response: *The use of antimycin was addressed on pages 3, 14-15, and in Appendix A of the EA, and technical staff knowledgeable in the use of fish toxicants was present at each of the public meetings to discuss this issue. Antimycin has been shown to be a safe and effective tool for the removal of non-native fish. Antimycin does not affect mammals, including humans and livestock and will not affect downstream drinking water. It is not necessary to remove livestock which may be pastured adjacent to streams treated with antimycin. The Department realizes that each project proposal site will have unique concerns regarding the use of fish toxicants and is committed to working with the public and local landowners to ensure that safe, effective use of fish toxicants is a high priority in this restoration program.*

Issue 13. Barriers

Comment: *The long-term effectiveness of barriers was discussed at public meetings.*

Response: *The Department recognizes that man-made barriers may not prevent fish movement particularly during high stream flow events. However, at each stream where barriers are needed, they will be designed and placed to maximize their effectiveness. In addition, all barriers used in this program will be monitored, evaluated and maintained annually.*

Decision

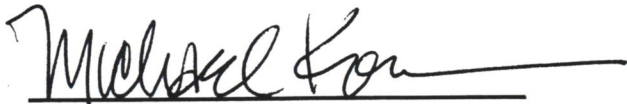
Utilizing the EA and public comment, a decision must be rendered by FWP which addresses the concerns and issues identified for the proposed restoration program.

It is my decision to proceed with the restoration strategy described in the EA as Alternative 3. The Department believes a comprehensive restoration strategy is warranted in the Elkhorn Mountains because of their unique management status, the quality of the habitat, and the importance of the genetic reserve represented by the 6 remaining WCT populations. These efforts would be consistent with the statewide conservation and restoration strategies, goals and objectives as outlined in the Memorandum of Understanding and Conservation Agreement for Westslope Cutthroat Trout in Montana (May, 1999.)

Alternative 3 will secure existing WCT populations and introduce WCT to five additional streams. In addition, Alternative 3 proposes to establish connected WCT populations in the McClellan and upper Crow Creek watersheds. Successful establishment of WCT populations in interconnected drainages is the best known tool for reducing risk of extinction. The establishment of a connected population will help achieve the statewide objective (of 4 connected populations) for WCT in the upper Missouri basin.

Ten of the 14 written comments we received supported implementation of Alternative 3. Two of the 3 comments supporting a less aggressive approach suggested that our priority actions are those listed for Alternative 2 (dealing with stabilization of existing populations) with a more aggressive approach in the future. Alternative 3 presents just such an approach. The Department will make any modifications in the program based on the monitoring done in the Elkhorns or on other developments in science and/or technology.

I find there to be no significant impact associated with this restoration program, except to help ensure the long term persistence of native trout in the Elkhorn Mountains. I therefore conclude that an Environmental Impact Statement is not necessary. The completed EA and response to comments included in this Decision Notice, along with the attached Memorandum of Understanding among the cooperating agencies, are an appropriate level of analysis. Individual projects on specific streams will be analyzed at a more site-specific level and will follow standard Montana Environmental Policy Act (MEPA) and/or National Environmental Policy Act (NEPA) procedures.

A handwritten signature in dark ink, appearing to read "Michael Korn", with a long horizontal line extending to the right.

Michael Korn
Helena Area Coordinator
Helena, Montana
July 1, 1999

MEMORANDUM OF UNDERSTANDING

between the

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

and the

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

HELENA NATIONAL FOREST

BEAVERHEAD-DEERLODGE NATIONAL FOREST

and the

UNITED STATES DEPARTMENT OF INTERIOR

BUREAU OF LAND MANAGEMENT

Butte Field Office

**MEMORANDUM OF UNDERSTANDING (MOU)
WESTSLOPE CUTTHROAT TROUT RESTORATION PROGRAM
ELKHORN MOUNTAINS**

**JULY 1996
updated in May 1999**

I. PREAMBLE

The Forest System lands in the Elkhorn Mountains are a designated "Wildlife Management Unit". These lands, in combination with the surrounding Bureau of Land Management (BLM) lands, are included in the "Elkhorn Cooperative Management Area" (ECMA). The ECMA management is guided by an earlier interagency Memorandum of Understanding ("Elkhorn MOU"), which was signed by the same three participating agencies in July, 1992.

The Forest System lands are managed under the Forest Plans completed in 1986 and 1987 (Helena and Deerlodge National Forests, respectively). BLM lands are managed under the 1985 Resource Management Plan.

Restoration of native species is an important wildlife goal in the ECMA. Previous experience in analyzing the restoration of bighorn sheep resulted in establishment, through the appeals review process in the Northern Regional Office (RO), that an MOU was the appropriate agreement between the State and the Forest Service relative to the reintroduction of native species.

II. PURPOSE

This MOU establishes the principles under which cutthroat trout would be recovered or reintroduced within the ECMA. The purpose of the *Elkhorn Mountains Cutthroat Trout Restoration Program* is to secure existing populations of Missouri westslope cutthroat trout within the streams flowing within and from the Elkhorn Mountains, and to expand cutthroat distribution in suitable barren habitats. This species has been extirpated from most of its original range in the Elkhorns through the loss of habitat and competition with non-native salmonid fishes, principally brook and rainbow trout. Cutthroat trout are an important component of the overall biodiversity objectives in the ECMA.

III. ROLES AND RESPONSIBILITIES

The Elkhorn Unit Managers and Elkhorn Implementation Group are the responsible parties for implementing the terms of this agreement. In addition, the Helena and Beaverhead-Deerlodge National Forest Fisheries Biologists are responsible for networking with the Elkhorn Implementation Group and with the principle FWP contact, Townsend Area Fisheries Biologist. FWP Cutthroat Trout specialist, Brad Shepard, is responsible for providing the latest information on reintroduction and reestablishment of cutthroat trout.

Coordination will also take place with the Helena FWP staff, with the Northern Region Fisheries Director, and the BLM State Office. This coordination is the responsibility of the principal contacts for this MOU.

IV. THE STATE AGREES TO:

Jointly prepare, with the Federal Agencies, a proposal outlining the stream reaches and necessary mitigation measures where existing populations require stabilization measures and those stream reaches where cutthroat trout could be reintroduced into the Elkhorn Mountains with reasonable expectation of successful reestablishment (based on the landscape documents, previous analysis, and on-going field surveys) and consistent with Land Management Plans.

Prepare, in coordination with the Federal Agencies, an analysis of the overall mountain range program document for the recovery of and/or reintroduction of westslope cutthroat trout into "target" stream reaches. The State is the lead agency in analyzing individual projects, which will have an environmental assessment

prepared and a signed decision document, in accordance with the Montana Environmental Policy Act (MEPA).

Conduct, with the Federal Agencies, public involvement and solicit public comments on proposed reintroductions.

Jointly submit, with the Federal Agencies, appropriate grants and proposals to provide outside funding for reintroduction efforts.

In cooperation with Federal agencies, conduct the necessary site-specific inventories and data to support restoration efforts.

Secure the necessary fish to implement reintroductions.

Supervise the actual reintroduction efforts.

V. THE FEDERAL AGENCIES AGREE TO:

Jointly coordinate or prepare, with the State of Montana, the above analyses, documents, funding strategies, and public involvement.

Prepare letter of concurrence for incorporation into final State Decision Document, when the action(s) do not involve "Federal action" (eg. reintroduction only).

In cooperation with the State, determine the need for habitat improvements (such as augmentation of barriers, or construction of barriers) to facilitate successful reintroductions into target stream reaches.

If reintroductions involve construction of barriers or other activities directly involving federal lands, the federal agency will insure that the MEPA document meets its agency NEPA standards, and will prepare its own FONSI and Decision Notice or Record.

In cooperation with the State, provide design specifications for barriers etc. on federal lands, and collect appropriate physical or biological data on target stream reaches.

Assist State with actual reintroductions by contributing funds and/or staff.

VI. BOTH PARTIES MUTUALLY AGREE TO:

A. TERMINATION: Either party/parties, in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration with 60 days notification.

B. PARTICIPATION IN SIMILAR ACTIVITIES: This instrument in no way restricts the parties from participating in similar activities with other public or private groups/agencies/individuals.

C. RESTRICTION FOR DELEGATES: Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

D. COMPLETION DATE: This instrument is executed as of the last date show below, and expires on October 1, 2010, at which time it will be subject to review, renewal, or expiration.

E. PRINCIPAL CONTACTS: The principal contacts for this instrument are:

Ron Spoon, Fisheries Biologist
Fish, Wildlife and Parks
PO Box 1137
Townsend, Mt 59644
(406) 266-3367

Jodie Canfield
Elkhorn Coordinator
415 So. Front
Townsend, Mt 59644
(406) 266-3425

Brian Sanborn, Forest Fisheries Biologist
Beaverhead-Deerlodge National Forest
1820 Meadowlark
Butte, Mt 59701
(406) 494-2147

Sally Sovey, Wildlife Biologist
Bureau of Land Management
Headwaters Resource Area
PO Box 3388
Butte, Mt 59701
(406) 494-5059

Len Walch, Forest Fisheries Biologist
Helena National Forest
2880 Skyway Drive
Helena, Mt 59601
(406) 449-5201

F. NON-FUND OBLIGATING DOCUMENT: This instrument is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for a noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

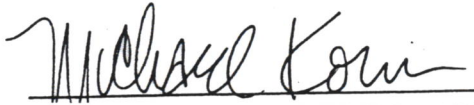
G. MODIFICATION: Modifications within the scope of this instrument shall be made by the issuance of a tri-laterally executed modification prior to any changes being performed.

H. PRIVATE INTERESTS: All parties agree to work with private interests to minimize conflicts between reintroduced cutthroat trout populations and existing land uses. In the event of conflict, the agencies agree to work with the affected party to arrive at a mutually agreeable solution, provided it is consistent with appropriate laws, management direction, and policies.

I. STAFFING: Parties agree to contribute, with the help of grants and other outside funding, to the staffing which is needed to implement the Westslope Cutthroat Trout Restoration Program in the Elkhorn Mountains. Contributions by BLM will be directed toward Muskrat Creek or other streams located on BLM lands. In principle, the Forest Service agrees to fund 1/2 of a full time biologist which will manage the restoration program in the Elkhorns. This position will also initiate a similar program in the Big Belt Mountains. The Forest Service will also fund a half time technician and provide office space for these individuals. The FWP will fund 1/2 of the full time biologist and an operations budget, as well as funding for barriers and fish toxicants.

VII. APPROVAL OF THE MOU

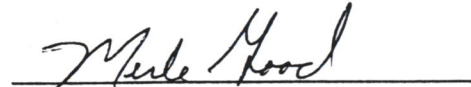
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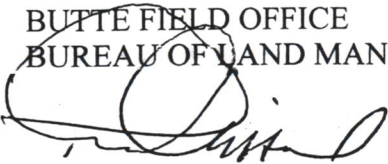
MICHAEL KORN, HELENA AREA COORDINATOR
REGION 3
MONTANA FISH, WILDLIFE & PARKS



MIKE PATERNI, ACTING FOREST SUPERVISOR
BEAVERHEAD-DEERLODGE NATIONAL FOREST



MERLE GOOD, FIELD MANAGER
BUTTE FIELD OFFICE
BUREAU OF LAND MANAGEMENT



THOMAS CLIFFORD, FOREST SUPERVISOR
HELENA NATIONAL FOREST